Member of the Legislative Assembly
Workers' Compensation Board
Service Review Input Committee

Final Report
October 2000

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October 17, 2000

The Honourable Clint Dunford
Minister Responsible for The Workers' Compensation Board
Room 324 Legislature Building
10800 – 97 Avenue
Edmonton, Alberta
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Dear Minister:

MLA/WCB SERVICE REVIEW INPUT COMMITTEE REPORT

On behalf of our committee I have enclosed our report to you on the service issues at the Workers' Compensation Board (WCB). Our report contains a number of recommendations that we present for your consideration and action.

We want to thank you for the opportunity to review service issues at the WCB. It was felt that the number of responses (800 plus) received from injured workers is an indication that the WCB needs to take steps to improve their service delivery. It was to be expected that, because the questionnaire was targeted to injured workers who were experiencing difficulties with the WCB, many of their comments would indicate problems and concerns. However, we appreciate that many of these individual Albertans were forthright in not only highlighting their problems, but in identifying solutions.

You will note that a number of the recommendations appear to fall "outside" the scope and mandate of "service." However, it is our opinion that policy and legislation often dictate or at least influence corporate culture and service attitudes.

We believe our recommendations provide some excellent avenues to address service issues at the WCB and we look forward to your response to this report.

Yours truly,

Victor Doerksen, MLA Red Deer South
Chair, MLA/WCB Service Review Committee

October 16, 2000

Honourable Clint Dunford
Minister Responsible for The Workers Compensation Board ...

We the undersigned members of the MLA/WCB Service Review Committee hereby append our signatures indicating our agreement with the report as presented.

Victor Doerksen, Chair, MLA, Red Deer South _____

Don Tannas, MLA, Highwood _____

Denis Herard, MLA, Calgary-Egmont _____

Yvonne Fritz, MLA, Calgary-Cross _____

Denis Ducharme, MLA, Bonnyville-Cold Lake _____

Julius Yankowsky, MLA, Edmonton-Beverly/Clareview _____

Executive Summary

The Committee reviewed information for this review primarily from injured workers. Information was also received from labour representatives, employer representatives, worker advocates and others.

While the Committee notes that the WCB has made improvements in several areas, there are some obvious concerns regarding the service provided to Alberta's injured workers. Too often, it seems that injured workers, rather than being helped and assisted during a difficult and traumatic time, are marginalized by the WCB. Many cannot not understand why they are not given the benefit of the doubt when there is a conflict between the WCB's Medical Advisors and their own doctors. They are frustrated by a system that seems unfair and unaccountable. Sometimes, case managers make workers feel that the injury was their own fault.

COMMUNICATION WITH INJURED WORKERS

Injured workers identified numerous issues surrounding information and communication at the WCB. Many workers indicated that they were not told of options available through WCB policies and benefits. Other workers say they do not understand the reasons behind decisions that WCB staff made about their cases. The Committee recommends that the WCB increase the amount and quality of the information for employees and employers, and provide this at the time of hiring. The WCB should also use plain language in all of its contact with injured workers, and should improve opportunities for injured workers to meet directly with staff who are involved in their case.

CASE MANAGEMENT

The case management process received particular attention during the review. Many injured workers feel that their WCB case managers do not empathize with them and their circumstances. Many injured workers expressed annoyance at having to deal with several case managers. Some workers noted that their files were transferred to new case managers, a situation that sometimes resulted in a reduction, or elimination, of benefits. Noting the importance of front line contact between injured workers and the WCB, the Committee makes several recommendations aimed at increasing the level of client service and case manager accountability.

ACCOUNTABILITY

During the review, the Committee learned that the WCB does not effectively allow for recourse by an injured worker who is denied coverage due to a decision by the WCB. Workers also do not think the current appeals process was fair. To ensure greater accountability throughout the system, the Committee recommends the formation of both an independent **appeals** body and an independent **audit** body.

CONFLICTING MEDICAL OPINION

Conflicting medical opinion and fitness to work are areas of particular concern to injured workers. The Committee points out the importance reaching a consensus on the best possible plan for the worker to achieve recovery and makes recommendations accordingly. Where this is difficult to achieve, the recommendations seek to reduce the burden that such conflicts place on the worker. Of significance is the Committee's recommendation that an injured worker's benefits must not be cut-off while a conflict of medical opinion exists.

The committee notes that the issue of conflicting medical opinion is very complex and recommends that an expert committee be established to review and make recommendations on how to handle diagnosis, treatment, and fitness to work issues.

LONG STANDING UNRESOLVED CLAIMS

Outstanding claims by injured workers against the WCB are a cause of particular frustration. The committee recommends a one time independent tribunal with the authority to arbitrate and settle these claims.

RESPONSE TIME AND OTHER ISSUES

Workers are extremely concerned with the waiting period involved in decisions on their claims. There are also concerns that certain legislative and policy elements are being used against workers, such as Section 49 of the WCB Act.

Overall, the Committee finds that immediate and significant changes are required to increase the timeliness, accuracy, and accountability of the WCB. The necessity for these changes are borne out by the large number of workers who responded to this review and forthrightly highlighted problems and identified solutions.

The Committee wishes to extend its gratitude to the parties who provided input into this review, especially injured workers.

Introduction

This report was prepared by the MLA/WCB Service Review Committee at the request of the Minister responsible for the Workers' Compensation Board. The Minister established the Committee in December 1999 and asked the Committee to gather information from Albertans regarding WCB service delivery. As Members of the Legislature gather a significant amount of information about the WCB from constituents, the Minister wanted to ensure that Members of the Legislative Assembly were given an opportunity to have input into that process.

The Committee was asked to take an objective look at operations and processes and provide recommendations and suggestions for improvement. The Committee reports to the Minister, who will be responsible for considering the findings and relaying them to the Service Review which the WCB is conducting independently of the MLA committee.

Part of the mandate of the Committee was to report on the linkage between injured workers who were WCB clients and the cost to our health and social assistance system. The results of that linkage, or relationship, were not readily available and are not dealt with in this report. Our committee recommends that the analysis of that relationship is important and urges the Minister to complete that study.

History

In 1988, the Minister responsible for the Workers' Compensation Board, released a Discussion Paper entitled *The Workers' Compensation Board: Shaping the Future*. The discussion paper requested input from those who received service from the WCB, and contained eight major recommendations. Shortly thereafter, the Millard Task Force was established, which heard a total of 288 individuals and organizations. Recommendations from the *Millard Task Force Report* included:

- Focus on rehabilitation rather than compensation
- Ensure there is an aggressive and proactive case management system
- Be more "service driven"
- Maintain an internal appeal system.

In 1991, the Horowitz Task Force was a established with representatives from both labour and business. The Task Force reviewed the cases of 45 injured workers who were dissatisfied with WCB decisions and sought to ascertain whether the application of the WCB's policies were producing fair and reasonable results.

Recommendations from the *Horowitz Task Force Report* included:

- Focus on the selection/training of case managers
- Communicate that the WCB is completely independent of the political system
- Establish an internal ombudsman/Office of Advisor to resolve problems.

We have referred to the previous reports, referencing some of their recommendations, in order to show that several of our recommendations are consistent with theirs, particularly with respect to case management. It is obvious that this is an ongoing matter that requires constant attention by the WCB. A "one time fix" will not work, only long term consistent application and focus in the area of case management will yield improved results.

Service Review and Consultation Process

Information gathered for the MLA Service Review came primarily from the questionnaire, which is described later. Additionally, we received input from a number of sources, including labour representatives, injured worker advocates, employer representatives, and information from MLA offices, including submissions from the official Opposition. The following list describes briefly our activities.

January 2000	▪ Developed template and checklist ▪ Toured WCB intake process ▪ Developed stakeholder list including key Alberta employers; injured workers; injured workers' advocacy groups; labour organizations; Alberta MLAs ▪ Met with focus groups to review draft questionnaire
February 2000	▪ Heard committee and industry stakeholder presentations in Edmonton ▪ Finalized questionnaire
March 2000	▪ Prepared and mailed questionnaires ▪ Put questionnaire on government website page ▪ Heard stakeholder presentations in Edmonton
April 2000	▪ Reviewed completed questionnaires ▪ Extended response deadline to May 15, 2000 ▪ Heard stakeholder presentations in Calgary ▪ Toured Millard Rehabilitation Centre
May 2000	▪ Extended response deadline to June 15, 2000 ▪ Advertised for input from injured workers ▪ Reviewed injured workers' files at WCB offices ▪ Heard stakeholder presentations in Edmonton
June 2000	▪ Heard stakeholder presentations
July and August 2000	▪ Reviewed preliminary questionnaire results ▪ Drafted Committee Report ▪ Reviewed injured workers' files ▪ Heard stakeholder presentations in Edmonton
September 2000	▪ Finalized Report

Questionnaire

The MLA/WCB Service Review Input Committee developed a questionnaire (Appendix One) which was primarily directed at injured workers who may have experienced difficulty in their claims process at the WCB. This was the main tool used by the Committee in gathering information and comments about service delivery at the WCB. The questionnaire was meant to be as specific as possible in order to focus on areas of common concern. It was designed so the respondent could choose to complete only the shorter "Checklist" version or go into more detail and complete the entire questionnaire. At the end of the questionnaire all respondents had an opportunity to provide recommendations to address the concerns raised.

In the end, almost 100% of respondents completed both the short and the long version of the questionnaire.

Originally the deadline for completion of the questionnaire was April 30, 2000. Injured workers told us that the deadline was too tight and the project required some publicity. The Minister extended the return date to June 15, 2000 and advertising was initiated in all the province's major and weekly newspapers.

Approximately 1,800 questionnaires were distributed: 805 were completed and returned. The results of the questionnaire are appended to this report.

Oral Presentations

Between January 2000 and July 2000, the Committee heard 26 presentations from injured workers, injured workers' advocates, employers and labour coalitions. In addition, committee members met individually with injured workers in their constituency offices to listen to and review their individual files regarding their claims at the WCB. The Committee is grateful to those individuals, many of whom were accompanied by family and friends, for sharing their personal experiences and providing their recommendations for improving the system.

Recommendations

We have approached our recommendation section by identifying the issues that were common to questionnaire responses and oral presentations. A brief synopsis is provided on the issue and is followed by recommendations to address each issue raised.

Progress is already being made in some areas as a result of initiatives recently undertaken by the WCB. Our recommendations, when considered with the history of previous review recommendations, reinforce that further action, diligence and focus is necessary.

Communication with Injured Workers

Findings:

These comments are directed at the communications issues identified in the appeal process. The matter of the appeals system is discussed on page 18 of this report.

- 87 % of respondents agreed that the WCB appeals process was frustrating
- 86 % of respondents indicated that the case manager did not inform them of all options available in WCB policies and benefits
- 94 % of respondents indicated that they did not understand the reason for the decision(s) made by the WCB

The last two points highlight a serious communication issue between the WCB and the injured worker. The WCB needs to understand that injured workers are not familiar with the legislation or the policies of the WCB. This cannot be overstated. Injured workers do not want to be WCB experts and the WCB should not put them in a position of having to research all aspects of the legislation and policies. Injured workers must be assured that they are being fairly treated and are being given the benefit of all options available to assist their return to work.

Communication with Injured Workers

Recommendations:

- ***Use plain language in decisions, documents and communications.***

How many people understand the difference between TTD and TPD, let alone their full meaning - Temporary Total Disability and Temporary Partial Disability? Various words may be important from an insurance and adjudication standpoint, but unless the injured worker understands what the terms really mean, confusion will continue.

- ***All workers should receive, upon commencing employment, an easy to understand information package describing all of the services and benefits provided by the WCB and the principles on which the WCB makes decisions.***

- ***When an employee is injured, the WCB should provide the injured worker with an up-to-date information package describing all of the services and benefits provided by the WCB and the principles on which the WCB makes decisions.***

This package would be a starting point for case managers and injured workers to discuss the various options which are applicable. For example, the injured worker should learn at the outset of the process that, in some instances, the WCB will pay for transportation costs.

- ***Injured workers should have the opportunity to meet their case manager in person, if so requested.***

- ***A translation service should be available for injured workers who have difficulty communicating in English.***

Case Management

Findings:

Case management was the dominant issue arising from the responses to the questionnaire. As the primary contact point between clients and the WCB, the case manager was most often referred to in comments on how injured workers' cases were handled.

Questionnaire results indicate that many injured workers feel their case managers do not empathize with them and their circumstances. At a time in their lives where an injury threatens their career, their financial well-being, and their families, injured workers want to know that they have options and that an understanding person will help them work through a difficult process. They want to be believed by their case manager, not made to feel guilty for being injured or have their integrity questioned when outlining the circumstances of the injury or difficulties in recovery.

The number one recommendation from injured workers who responded to the questionnaire was to have case managers who are both "humane" and "trustworthy." It seemed to us that an adversarial relationship often existed between the case manager and the injured worker.

Many injured workers expressed annoyance with having to deal with several case managers. Some expressed the viewpoint that they were getting along satisfactorily with a case manager only to be shuffled to another and benefits were then reduced or cut-off. This left them with the impression that claims are "dollar savings" driven. A perception exists that the WCB incentive plan is focused on cost reduction instead of injured worker recovery.

Case managers, on the other hand, must balance the demands of employer and employee, as well as meeting the expectations of WCB management. This means case managers have to manage competing and often conflicting priorities. Caseload and training are factors in a case manager's ability to do a proper job.

Case Management

Recommendations:

- ***The WCB should strive to maintain one primary case manager on a file until closed.***
- ***The WCB should focus on case management and review case manager caseload.***
- ***The WCB should focus on retaining experienced and qualified case managers.***
- ***Case managers must be trained in customer service, as well as oral and written communication skills.***
- ***Case managers should become familiar with workplace conditions to better understand factors affecting injured workers and their ability to return to pre-injury employment.***

Our recommendations are aimed at the corporate culture – WCB case managers should be viewed as the critical point of quality control and successful client service. Nothing is as important as the front line contact between the case manager, the injured worker, and the employer.

The ability to retain quality and experienced personnel at the case manager level will have a significant impact on that relationship. The WCB should attempt where possible to maintain continuity of case management. It is our understanding that "Customer Connects" will provide some continuity within a particular service area. This is important, as the injured worker wants to feel that someone is familiar with their case and that they do not have to re-explain each time they contact WCB.

Accountability

Findings:

A companion to the frustration of injured workers with case managers is the area of accountability. The evidence indicates that case managers who do not resolve claimants' concerns raise a question for both claimants and employers: *How do you hold the WCB accountable?*

The Meredith principle gives the WCB considerable autonomy and authority. Basically, it establishes a Workers' Compensation system, funded by employers, giving workers insurance against financial and occupational harm in the event of an accident or injury in the workplace. In consideration of this, the employer is protected from being sued by an injured worker.

From the responses received in questionnaires and oral presentations, we learned that the system does not effectively allow for recourse by an injured worker who has been denied the benefit of coverage because of a decision made by the WCB. This has caused injured workers to resent the system. Most workers felt that the appeals process was difficult and did not provide them with a fair process to resolve their issues. In many cases the injured worker does not understand the reasons for a decision.

We have often heard that the designation "pre-existing condition" is an area of frustration by injured workers. They are denied coverage or entitlement because a pre-existing condition predisposed them towards a particular injury. Imagine the frustration when a worker suffers a back injury in a work related vehicle accident and is denied WCB coverage because of previous backaches. While a pre-existing back condition is admitted, a work place accident could certainly be responsible for accelerating a back injury.

A related area of concern is "causation," or the mechanism of injury. The WCB holds itself out to be a centre of expertise in causation and its staff make judgements accordingly on injured workers' files. This often results in conflicts of medical opinions between the WCB and treating physicians and leaves few options for the injured worker.

Other areas of concern include disagreement between a case manager and an injured worker over fitness to return to work. These disputes often occur between rehabilitation treatment centres' staff, attending physicians, medical advisors and independent medical examiners.

The case manager in assessing all of these and other factors has significant latitude in judgement. In the event the case is judged incorrectly, injured workers have no effective mechanism to make their cases, nor do they have any recourse against the WCB.

While the injured worker has some avenues of appeal through the Claims Service Review Committee (CSRC) and the Appeals Commission, neither is well regarded by injured workers. See page 18.

Accountability

Recommendations:

- ***Establish an independent appeals process see recommendations on page 18.***

- ***Establish an independent audit body to monitor the appropriateness and consistency of WCB decisions in the following areas:***

    1. ***Case manager assessments and decisions.***
    2. ***Financial transactions to verify calculations and payments.***
    3. ***Costs to ensure they are being fairly levied against employers.***
    4. ***Financial transactions on medical costs to ensure they are accurately allocated to the WCB or Alberta Health and Wellness.***

Accountability will only be achieved if independent bodies outside of the WCB have the authority to arbitrate, weigh evidence, and decide on individual cases.

We have suggested that in addition to an independent appeals body, an independent audit body be established. We have in mind much more than a financial audit, rather an audit that randomly samples and evaluates the decisions of case managers to ascertain that correct processes, legislation and policy are followed. The WCB needs to ensure that information is given proper weight, that timelines are met, and that calculations are correctly completed. The audit results should form a major part of the case manager performance rating. Beyond the case manager, the audit would also need to ensure that employer and industry groups are being fairly charged for the claim losses and further, that the allocation from/to Alberta Health and Wellness is correct.

Conflicting Medical Opinion

Findings:

The questionnaire results show that the issue of medical opinion and fitness to work assessments are contentious areas with injured workers. For instance, only 18% of the respondents to the short form questionnaire indicated "that the WCB and my physician agreed on the extent of my injuries." Results from the long form questionnaire section on Medical Assessment and Diagnosis, and the section on Treatment Plan and Rehabilitation Results, clearly indicate how contentious this issue is.

Conflicting medical opinions can arise between the treating practitioner (general practice physician, a specialist physician, chiropractor, physiotherapist, dentist, etc.), the medical advisor at the WCB, the WCB contracted Independent Medical Examiners and the rehabilitation centres. The injured worker, who has his own opinion of his medical condition, is powerless to get timely resolution and treatment.

Conflicting medical opinions can arise in a number of areas:

a. What is the correct diagnosis?
b. Which treatment option(s) or diagnostic test(s) should be used?
c. Was the injury caused by a work-related accident?
d. Was the disease the result of work environment?
e. Does the injury prevent, or permit, a return to work either at existing duties or at modified duties?

The use of WCB internal Medical Advisors and external Independent Medical Examiners is a common source of frustration for injured workers because:

a. A referral to a Medical Advisor often leads to delays in claim administration - the case manager will not make a decision until the Medical Advisor provides an opinion.
b. The Medical Advisor often makes judgements about the injury or disease without actually seeing the injured worker.
c. The Medical Advisor's report is given more credibility than the local attending practitioner.

Frequently, injured workers did not understand that, in cases of medical opinion, medical diagnosis is different from a determination of "fitness to work."

Recommendations and action on this subject are clearly required because of the importance of the issue. Although the issues of diagnosis and treatment plans are distinct, they are highly interrelated. Disagreement between the case manager and the medical professional on diagnosis were not nearly as significant an issue as the difficulties in reaching agreement on treatment issues and rehabilitation plans.

Regardless of the complexity, we have made some recommendations which we feel will be helpful. However, we also acknowledge that much more work is needed in this area.

Conflicting Medical Opinion

Recommendations:

- ***The WCB should establish in policy that a Medical Advisor, when used, must reach agreement with the attending physician on matters of diagnosis, treatment plans, and on whether the injury prevents a return to work or modified duties.***

- ***Where consensus or agreement cannot be reached an independent three member medical panel must assess the injured worker, in person, and their opinion will be final. The College of Physicians and Surgeons and the Alberta Medical Association should be included in the process of setting up approved lists of physicians and specialists.***

Existing Policy 03-01, Part II indicates "that in the event that medical opinions are in conflict, the administration is directed to resolve the issue through a consultative approach involving the injured worker and the worker's treating physician(s)." We saw no evidence that this was in fact occurring. This policy statement needs to be strengthened by legislation and needs to include the Medical Advisors.

Our recommendations here clearly indicate that more reliance should be placed on the judgement of the attending or local treating professional. This has potential work load implications for them and is an issue that will require the involvement of the Alberta Medical Association, as well as the College of Physicians and Surgeons.

- ***An injured worker's benefits must not be cut-off until conflict in medical opinion is resolved.***

The above recommendations are measures that could be implemented in a relatively short period of time, however, are viewed as merely a short-term solution.

- ***The Minister should establish an expert committee to review and provide recommendations on how the WCB should handle diagnosis, treatment, and fitness to return to work issues.***

The complexity of medical diagnosis and treatment issues deserves the scrutiny and advice of persons who are knowledgeable in these areas. One of the main areas for consideration would be on how to set up a process that separates financial decision-making (ie: case manager) from medical judgement (ie: fitness to work). We comment on this further on page 23.

Appeals Process

Findings:

This section highlights the information that our committee received in the questionnaire. An Appeals System Review Committee, established by the Minister responsible for the WCB, has the mandate to review the appeals process and provide recommendations to the Minister.

Our results highlight the fact that injured workers are aware of the appeals process and their right to appeal. However, it appears to be an area of extreme frustration for injured workers. For example, many felt that the case manager was instrumental in delaying their appeal. Additionally, only 11% of respondents said their appeal was heard promptly.

Of significance, 28% of respondents said that the WCB did not honor the results of their appeal.

Recommendations:

- ***Appeals must be heard in a timely manner.***
- ***The case manager must honor a decision made by the Claims Service Review Committee, Appeals Commission, or whichever new body might be established.***
- ***The Appeals Commission and Appeals Advisors need to be independent of the WCB.***
- ***Establish an Alternative Dispute Resolution process that will resolve issues (including service issues) before going to appeal.***

We are hopeful that these recommendations will support the recommendations from the Appeals System Review Committee.

Response Time For Decisions

Findings:

Injured workers are extremely concerned with the waiting period involved in decisions on their claims.

While the case manager may be following the "correct internal process" of assessing new information and evidence, the injured worker must still pay bills, and attend therapy that may, or may not, be paid for.

Recommendation:

- ***The principle of "Benefit of Doubt" as articulated in Policy: 01-03 PART I, should include a specified time element, whereby a decision in favor of the injured worker may not be unreasonably delayed. The WCB Board should establish a specified time element of 20 to 30 days.***

The current policy statement reads: "If all the evidence for and against a decision on a claim is equally balanced, the benefit of doubt goes to the injured worker." If a matter remains in doubt while a case manager is waiting for the results of further medical testing, information reports, etc., the current policy statement allows a case manager to delay making a decision on the file.

A time element introduced into the policy statement will require the benefit of doubt principle to be applied expeditiously.

Subsequent information, or a ruling from a medical panel, may alter a decision but recovery of benefits paid out should only be pursued in the case of fraud or deliberate intent to mislead or falsify information.

Section 49, The Workers' Compensation Act

Section 49:

> *"If a worker conducts himself in a manner that tends to imperil or retard his recovery or refuses to undergo any medical aid that the Board, based on independent medical advice, considers reasonably essential to promote his recovery, the Board may reduce or suspend the compensation payable to that worker."*

Injured workers believe this section is being overused by case managers and is used inappropriately. Many injured workers commented that treating facilities pushed them beyond their abilities and in some cases aggravated injuries.

Recommendation:

- ***The WCB should create a policy stating that this section can only be applied after the process on Conflicting Medical Opinion has been followed.*** ***See pages 16-17.***

There are occasions when the injured worker is confident that rehabilitation has not been successful even though he/she has been declared "fit to return to work." To have benefits stopped or reduced at this point is offensive and puts the injured worker in the position of having to prove continued impairment is caused by the injury.

Long Standing Unresolved Claims

Findings:
The questionnaires indicated that there are a number of claims that have a long file history. These claims have common elements which may include chronic pain, ongoing medical attention, and disputes over causation.

Many frustrating hours are spent by both the claimant and the case managers in trying to find a way to settle or resolve the issues. While the claim is often self-evident, the onus and cost is on the injured worker to prove the ongoing problem.

Recommendation:

- ***Establish a one time independent tribunal with the authority to arbitrate and resolve, through settlement, long standing contentious claims.***

This process will allow injured workers to present their cases and provide an opportunity for both the injured worker and the WCB to resolve outstanding issues without confrontation or assigning blame.

We are recommending a temporary process with the objective to clear up the backlog of files. For instance injured workers with cases predating 1995 could be given the opportunity to apply to appear before the tribunal.

This process will require legislative initiative and should proceed as quickly as possible. It is our recommendation that premium costs on these files would not be assessed against employers or industry groups.

It is not the objective here to go into detail on this process and a review of the Nova Scotia and Ontario models is suggested.

Other Recommendations

- ***The WCB should maintain an adequate number of case managers who have specialized training in the brain injury area.***

Brain injuries are unique in that individuals with brain injury may not appear to have physical disabilities, yet their functioning on an awareness basis is detrimental to their ability to work. These individual cases deserve case managers who have training in this field.

- ***The WCB should establish clear policies with respect to acceptance of evidence before using that evidence as a basis or influence in decision making.***

Case managers are not held to ordinary rules of evidence that would be required in a court of law. Examples of evidence are anonymous tips or the use of surveillance. The WCB should be held to a high standard on rules of evidence.

- ***The injured worker should have a choice in location of rehabilitation.***

Often the injured workers are told where they must receive rehabilitation or therapy. Injured workers should be presented with options on where rehabilitation may occur.

- ***Criteria for case managers bonuses must be clear, transparent and stand up to scrutiny by the Auditor General.***

Many injured workers often expressed the opinion that bonuses paid to case managers are a result of denying claims. This is not supported by the current facts. Our committee is not opposed to the payment of bonuses to case manager based on performance. Client satisfaction measurements should be taken at the close of each case.

Matters for Further Consideration

In the course of our work we pondered the issue of conflict of interest inherent in some of the processes at WCB. We did not feel we had adequate time, expertise, nor resources to properly explore the issue. However, we feel that conflict of interest should at least be identified as a matter requiring further consideration.

Medical Advisors provide advice to case managers on medical diagnosis, treatment plans, fitness to work, etc., for individual clients. As WCB employees, there are potential conflict of interest implications to make recommendations in favor of the WCB.

We can understand the benefit of expert advice to case managers who do not have as much training or expertise in medical and treatment matters. However, while we do not wish to make allegations, it is evident that conflict of interest has potential. Our recommendations under Conflicting Medical Opinions begin to address this conflict by requiring Medical Advisors to seek agreement from local treating practitioners, but this area deserves greater scrutiny and examination.

Should the entity paying the bills also be responsible for rehabilitation and treatment?

The *Millard Task Force Report* recommended that the WCB focus on rehabilitation rather than compensation. As a committee, we endorse fully the goal of injured workers returning to work as soon as possible. Rehabilitation and treatment are critically important to achieving this goal. We firmly believe that the longer an employee stays off work the harder it becomes for their return. The psychological impact of work on our sense of well being and self worth are often more important than actual physical ability.

While we are not questioning the intent of the Millard Task Force recommendation, its implementation requires further consideration. The questionnaire responses and oral presentations from injured workers indicate a high level of dissatisfaction with their rehabilitation plans. Injured workers were forced to attend certain rehabilitation centers or face the loss of their benefits. Many workers report a "cookie cutter" approach rather than individually planned programs. Upon completion of the standard plan they would be declared "fit to work" and benefits would cease. On the other hand, we have seen the benefits of a specialized treatment centre which is geared to rehabilitation in a work-like setting.

As the WCB owns and operates the Millard Centre there is potential for conflict of interest in keeping costs down by declaring the injured worker fit for employment and ending the payment of benefits. As mentioned in the section dealing with Conflicting Medical Opinion, there must be a separation between the financial decision-making and the medical decision-making (including fitness to work evaluations).

Appendix I

PART I: PERSONAL INFORMATION

It is optional to complete this personal information section. All information will be treated in the strictest confidence.

Name:
Address:

WCB Case Number:
WCB Case Manager(s):

WCB Physician:

Male ❑ Female ❑
Occupation at time of Injury:

Date of Injury:
Type of Injury:

PART II: SHORT VERSION – CHECKLIST

Listed below are a number of statements. Please check the ones that are appropriate for your situation. Please add any other comments under "other."

Yes	No	
❑	❑	The WCB staff treated me with courtesy and respect.
❑	❑	The Case Manager understood my employment conditions.
❑	❑	The Case Manager understood the circumstances about my claim.
❑	❑	The Case Manager informed me of all options under WCB policies and benefits.
❑	❑	The Case Manager returned my phone calls promptly.
❑	❑	The WCB appeals process was frustrating.
❑	❑	The WCB appeals advisor was helpful in presenting my appeal.
❑	❑	The WCB and my own physician agreed on the extent of my injuries.
❑	❑	The WCB forms were easy to understand and fill out.
❑	❑	Treatment at the rehabilitation centre(s) was effective in helping me return to work. Please identify the rehabilitation centre(s): _____
❑	❑	The benefits I received from WCB were reduced/cut-off before I was able to return to work.
❑	❑	My employer offered me modified work.
❑	❑	I understood the reasons for the amount of compensation I received.
❑	❑	I understood the reasons for the decision(s) made by the WCB

Other, please explain:

_____

_____

_____

Please return completed questionnaire by June 15, 2000:

Chair, MLA Review Committee
634 Legislature Annex, 9718 – 107 Street, Edmonton, Alberta T5K 1E4

PART III: LONG VERSION – QUESTIONNAIRE

Questions 1 thru 7 are more detailed questions related to services provided by the WCB; and 8 thru 10 are general comments. Please respond by indicating yes or no, or not applicable (n/a).

1. Employee/employer understanding of WCB

Workers' compensation is a disability insurance system to protect workers and employers against the impact of work injuries. Its purpose is to compensate injured workers for lost income, health care, and other costs related to their injuries.

	Yes	No	N/A
a) My employer encouraged me to file a claim with the WCB.			
b) I understood the procedure for filing a claim with the WCB.			
c) Did you notify your employer of your accident as soon as possible?			
d) The WCB forms were easy to understand and complete.			

2. Client Services – Case Manager

Injured workers deserve sound advice, courteous and prompt service, good communications and WCB staff who listen to them. In this section we want to find out about the quality of service offered by WCB.

	Yes	No	N/A
a) Were you notified within 7 days by the WCB that your claim was registered?			
b) Was the WCB staff courteous and respectful during your claim processing?			
c) Do you feel that your claim was described and recorded correctly from the initial recording of your claim?			
d) Was your Case Manager familiar and knowledgeable about your claim?			
e) Did your Case Manager return your phone calls promptly?			
f) Did you receive information you asked for about your claim promptly?			
g) Did you understand the information that was communicated to you?			

3. Medical Assessment & Diagnosis

	Yes	No	N/A
a) Did your doctor provide you with a diagnosis of your injury?			
b) Did the WCB Case Manager accept that your injury was work related?			
c) Were you required to see another physician? If yes, • Did this physician provide you with a diagnosis? • Did the Case Manager discuss your medical assessment with WCB medical professionals?			
d) If referred to another professional did you wait a long time for an appointment? If yes, how long?			
e) Was a pre-existing condition a main point of contention in your claim?			

4. Treatment Plan and Rehabilitation

	Yes	No	N/A
a) Did your physician propose a treatment plan for you?			
b) Did your Case Manager agree with your physician's treatment plan?			
c) Did your Case Manager work with you and your physician to resolve issues of treatment?			
d) Were treatment options (locations, etc.) discussed with you prior to arrangements?			
e) If you were treated at a rehabilitation centre was the treatment helpful in your return to work? Name of the rehabilitation centre(s):_____			
f) Do you feel that the WCB assisted with your return to work?			

5. Vocational Assistance and Training

	Yes	No	N/A
a) Did the WCB Case Manager involve your employer in your return to work plan?			
b) If you were unable to go immediately back to your "old" job: • Did your employer offer you modified work? • Did you find your work meaningful?			
c) Were other vocational or retraining options discussed with you and the Case Manager?			
d) Did you continue to receive benefits up to the point when you were able to return to work?			

6. WCB Adjudication and Decisions

The WCB reviews claims on a case by case basis. The Committee would like your assessment on the decisions made on your claim by the WCB staff.

When you heard about the decision was it by phone ☐ letter ☐ or both ☐

	Yes	No	N/A
a) Did the Case Manager explain the reasons for the decision?			
b) Did you understand the reasons for the decision?			
c) If you disagreed with a decision, were you given a chance to further explain the circumstances?			
d) Did the Case Manager advise you that the decision could be appealed?			
e) *If, during the duration of your claim, benefits were changed, were you informed of the reasons for the change?* • Were they changed because of medical opinion differences between your physician and WCB medical assessment? • Were they changed because the WCB thought your medical condition did not interfere with your ability to return to your original employment or modified work? • Other? Explain: _____			

7. Appeals Process

The WCB has a multi tiered appeal system. The first appeal, after exhausting all discussions with the Case Manager and their supervisor is to the Claims Service Review Committee (CSRC). The second appeal is to the Appeals Commission. In this section we want to know if you were aware of the appeals process and whether you felt you received a fair hearing.

Note: Another committee is reviewing the appeals process. Would you like that Committee to contact you for your input? Yes ☐ No ☐

	Yes	No	N/A
a) Were you aware that you could appeal the decisions on your claim?			
b) Was there a delay of your appeal at the Case Manager level?			
c) Was your appeal heard promptly?			
d) Did the WCB honour the results of the appeal decision?			

8. Legislation, Policy and Regulations

Are you aware of any barriers in legislation, regulations, or policy that have affected the outcome of your claim under the WCB?

_____

_____

9. *Positive Comments About WCB Operations*

Please explain any positive aspects that you experienced in the handling of your claim.

_____

_____

_____

10. *Most Important Factors*

In this Questionnaire we have attempted to focus on areas where common themes may arise. Please identify two recommendations you think would be the most helpful in improving the WCB processes and services.

a) Most important recommendation:

_____

_____

_____

b) Second most important recommendation:

_____

_____

_____

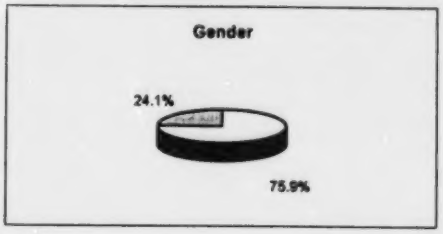
Please return completed questionnaire by June 15, 2000 to:
Chair, MLA Review Committee
634 Legislature Annex, 9718 – 107 Street, Edmonton, AB T5K 1E4

Thank you for your time in completing this Questionnaire. If there are other comments you would like to make, please list them below.

Appendix II

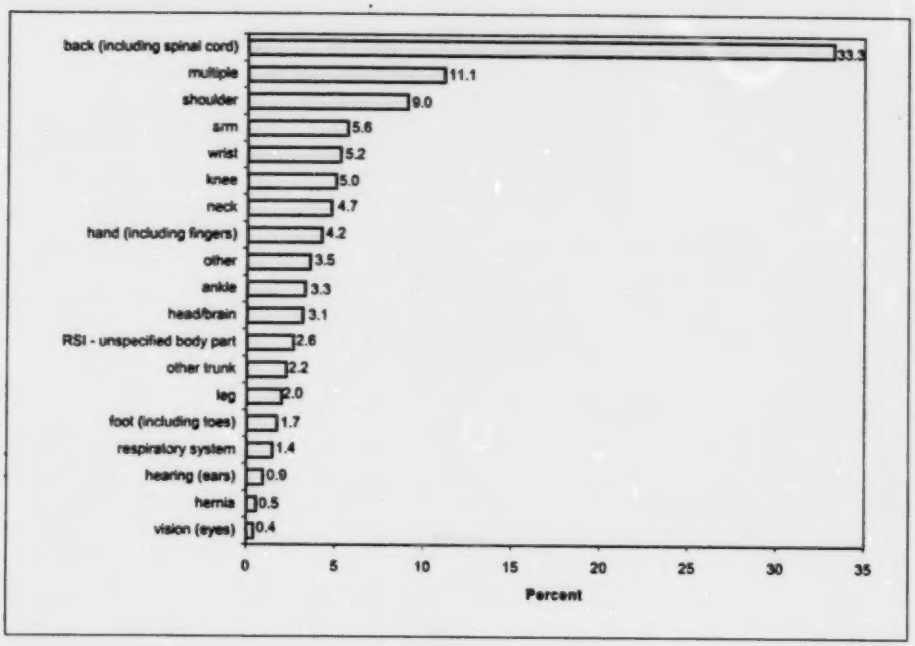
SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

Gender (n=713)



A total of 805 responses were received. This comprised 73 (9.1%) completed checklists (Part II - Short Version) only, 46 (5.7%) completed long Surveys (Part III - Long Version) only, and 686 (85.2%) completed checklists and long surveys. Please note that workers could complete more than one checklist and/or long survey if they had multiple WCB Claims.

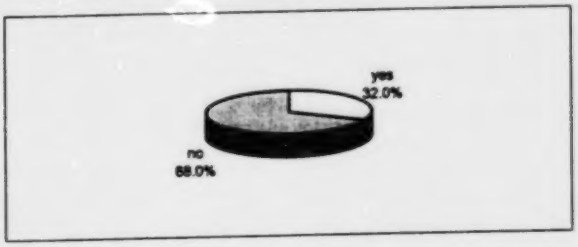
Part of Body Injured (n=763)



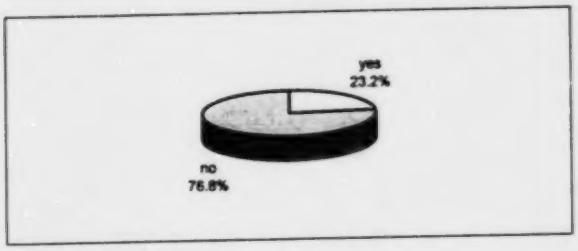
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

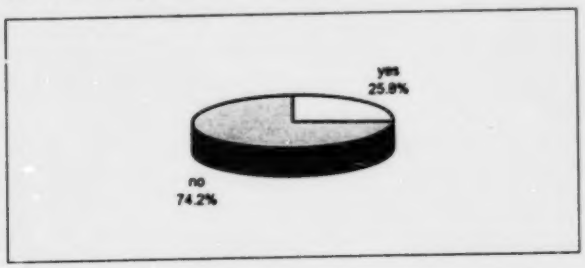
The WCB staff treated me with courtesy and respect. (n=800)



The Case Manager understood my employment conditions. (n=825)



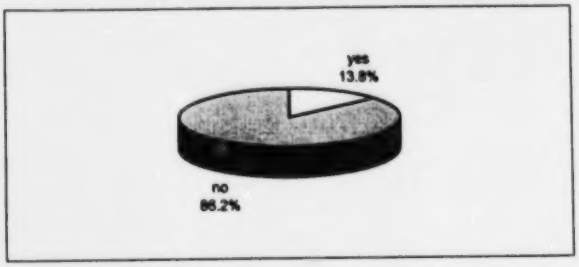
The Case Manager understood the circumstances about my claim. (n=812)



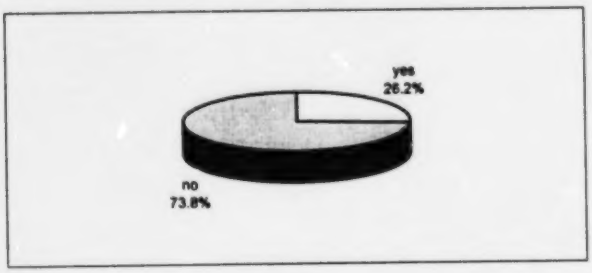
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

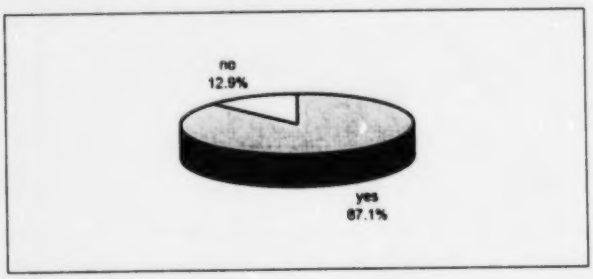
The Case Manager informed me of all options under WCB policies and benefits. (n=824)



The Case Manager returned my phone calls promptly. (n=819)



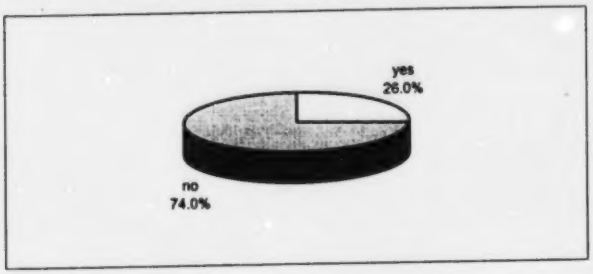
The WCB appeals process was frustrating. (n=541)



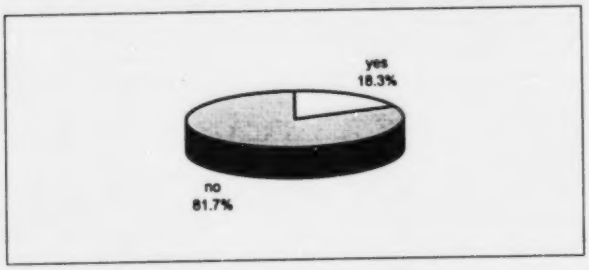
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

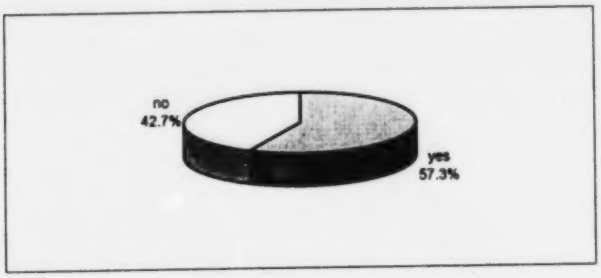
The WCB appeals advisor was helpful in presenting my appeal. (n=442)



The WCB and my physician agreed on the extent of my injuries. (n=595)



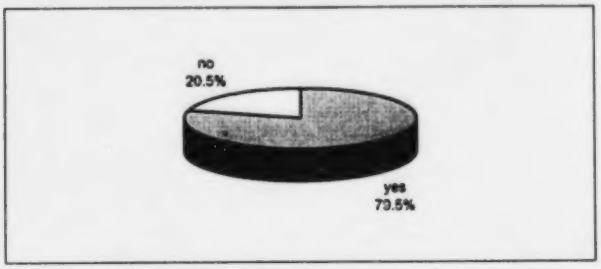
The WCB forms were easy to understand and fill out. (n=620)



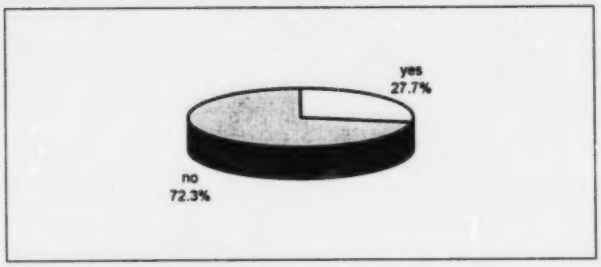
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

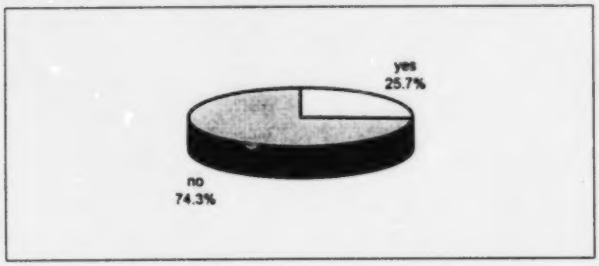
The benefits I received from WCB were reduced/cut-off before I was able to return to work. (n=557)



My employer offered me modified work. (n=600)



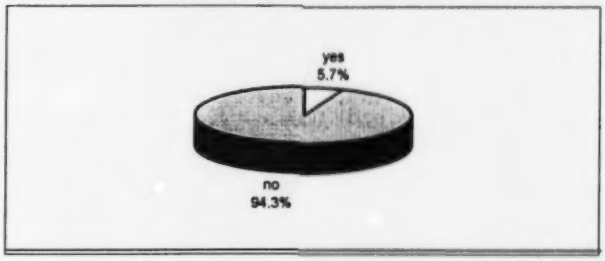
I understood the reasons for the amount of compensation I received. (n=579)



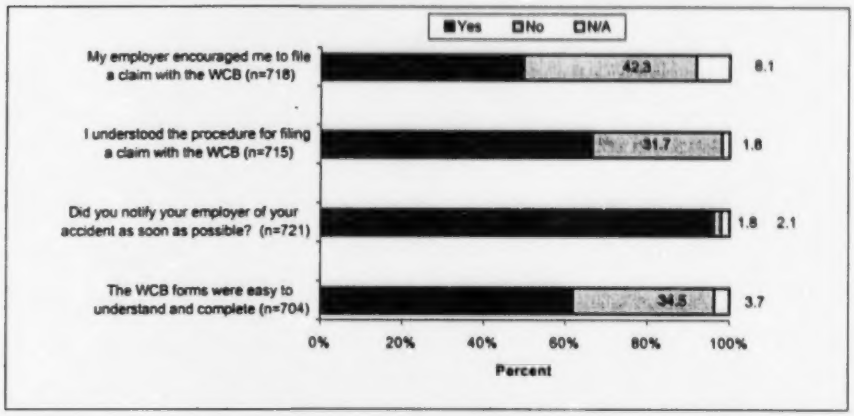
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

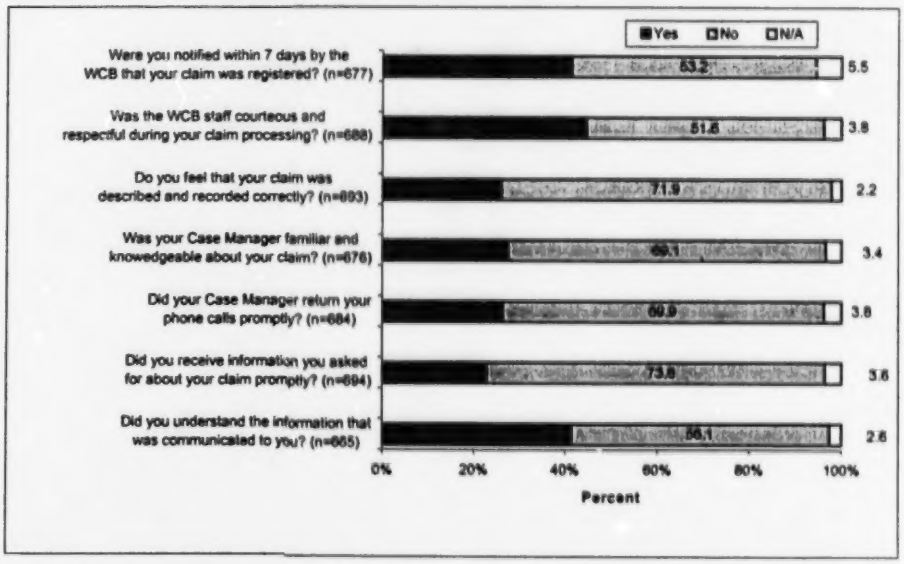
I understood the reasons for the decision(s) made by the WCB. (n=618)



Employee/Employer Understanding Of WCB



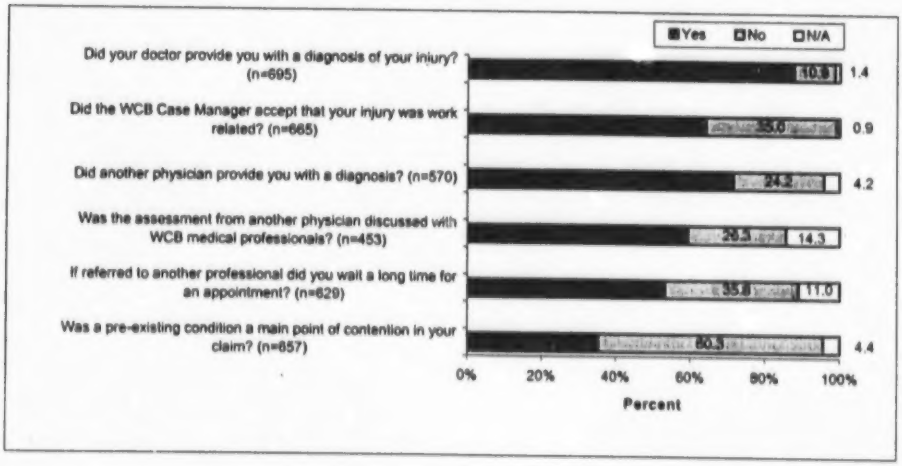
Client Services - Case Manager



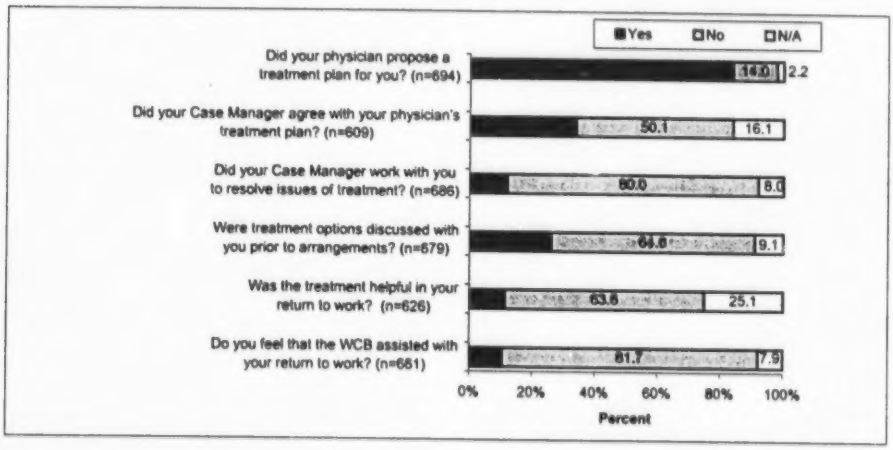
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

Medical Assessment & Diagnosis



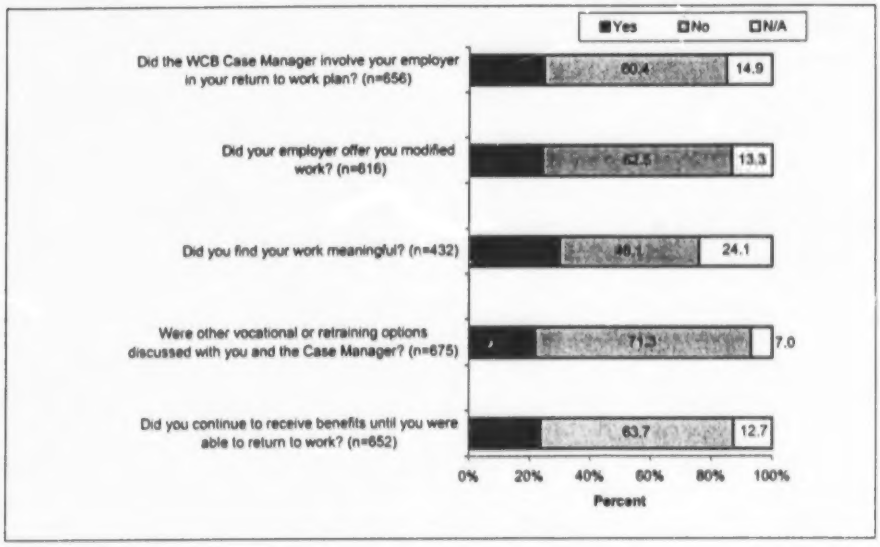
Treatment Plan and Rehabilitation



Appendix II

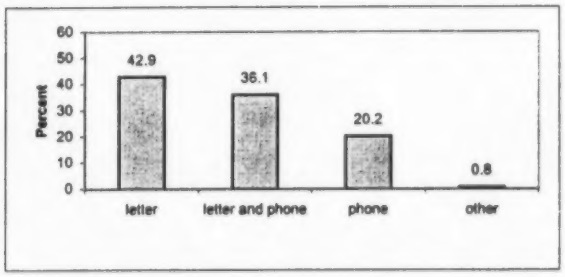
SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

Vocational Assistance and Training



WCB Adjudication and Decisions

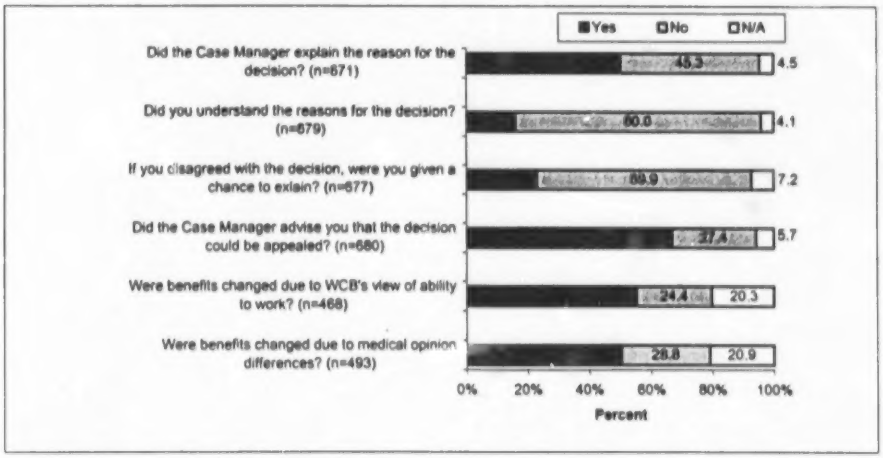
Method to convey claim decision: (n=604)



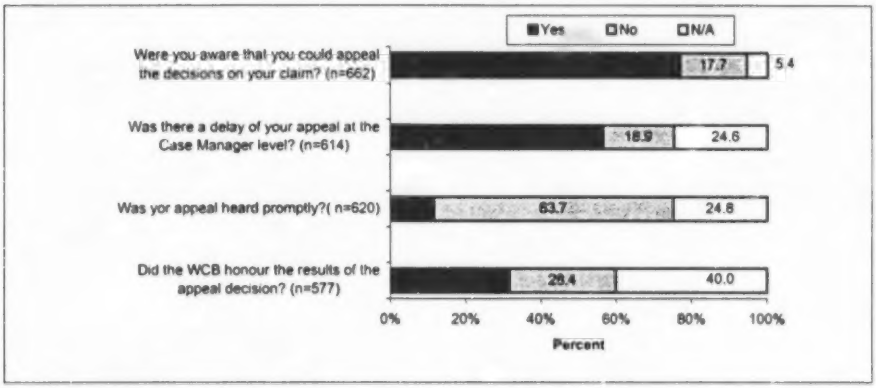
Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

WCB Adjudication and Decision



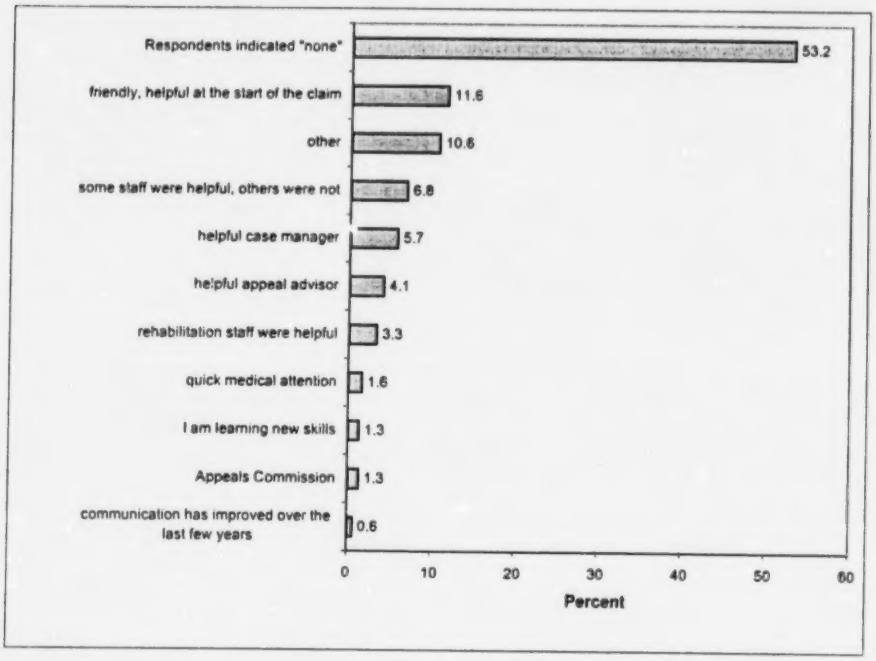
Appeals Process



Appendix II

SELECTED PRELIMINARY RESULTS OF THE WCB SERVICE REVIEW

Positive aspects in handling of your claim. (n=632)



Summary of Responses to Question 10 and 10b
(Questions 10(a) and 10(b))

	Frequency for most important Recommendation		Frequency for 2nd. most important Recommendation	
	N	%	N	%
Case Manager				
have more humane case managers	88	10.7	75	11.3
worker has no trust in case manager	53	6.4	41	6.2
have better trained staff	52	6.3	27	4.1
provide faster response time	50	6.1	32	4.8
lack of communication about policies	45	5.5	33	5.0
reduce the number of case managers dealing with a case	25	3.0	15	2.3
case managers make decisions not based on medical advice	18	2.2	15	2.3
case manager does not understand my job requirements	17	2.1	9	1.4
case managers have too much power	16	1.9	17	2.6
rewarding case managers who deny claims	15	1.8	14	2.1
missing information on file / better management of files and records	12	1.5	9	1.4
have more impartial case managers	8	1.0	7	1.1
I am still injured, but benefits have been reduced/eliminated	7	0.8	12	1.8
case manager should meet with employer and worker together	5	0.6	2	0.3
WCB says that the injury was not work-related	5	0.6	3	0.5
could not get information added to my file	3	0.4	2	0.3
worker should have a copy of all information	2	0.2	0	0.0
lack of communication of decision	2	0.2	7	1.1
no reasons were provided for decision	1	0.1	1	0.2
inconsistencies in case managers interpretations and decisions	1	0.1	1	0.2
stop harassing injured workers by surveillance	0	0.0	3	0.5
Legislation, Regulations, Policy				
lack of accountability by the WCB	26	3.2	20	3.0
independent review body, instead of CSRC	24	2.9	19	2.9
purpose of WCB is to return the worker to work, not to health	19	2.3	17	2.6
inconsistencies in WCB policies/WCB not following policies	15	1.8	6	0.9
my income is substantially less	15	1.8	15	2.3
there should be a full public enquiry of the WCB	13	1.6	7	1.1
cannot sue WCB and/or my employer and/or another employer	12	1.5	11	1.7
provide faster appeal process (within a specified time)	12	1.5	11	1.7
unfair policies	11	1.3	10	1.5
not clear how benefits are provided (unclear policies)	9	1.1	12	1.8
payment also for socio-economic reasons (pain, suffering, loss of everyday	7	0.8	7	1.1
WCB is unethical in its methods	4	0.5	7	1.1
regular audits of WCB files should take place	3	0.4	1	0.2
the Ombudsman should have more power	2	0.2	3	0.5
no trust in politicians	2	0.2	3	0.5
no income during the appeal process	1	0.1	2	0.3
lack of job security in modified work	0	0.0	1	0.2
Rehabilitation, Medical Services, Assessment				
WCB physician should not be able to over-rule the attending physician	78	9.5	34	5.1
WCB medical advisors are biased (because they are part of the system)	26	3.2	15	2.3

Summary of Responses to Question 10 and 10b
(Questions 10(a) and 10(b))

	Frequency for most important Recommendation		Frequency for 2nd. most important Recommendation	
	N	%	N	%
improve qualifications of WCB physicians	17	2.1	17	2.6
WCB does not understand long-term disability	10	1.2	7	1.1
rehabilitation (or assessment) did more harm than good	8	1.0	8	1.2
hire injured workers to work at WCB	6	0.7	3	0.5
long delay to get medical tests for diagnosis or medical treatment	6	0.7	9	1.4
I cannot return to my original occupation	5	0.6	5	0.8
no benefits received	1	0.1	4	0.6
WCB diagnoses is wrong	1	0.1	7	1.1
modified work did more harm than good	0	0.0	2	0.3
Other				
Other	49	5.9	66	9.9
privatize the WCB	15	1.8	11	1.7
no problems in dealing with WCB	1	0.1	.	.
[information provided in survey is about an individual case]	1	0.1	1	0.2
TOTAL	**824**	**100.0**	**666**	**100.0**